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Chambers of Vincent L. Briccetti

DH

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
LUIS E. PONCE-MELENDRÉS,  
Plaintiff,

v.

CORRECTIONAL OFFICER DONOHUE,  
Badge #303, CORRECTIONAL SERGEANT  
COLBY, and COUNTY OF ORANGE,  
Defendants.  
-----X**ORDER**

20 CV 7710 (VB)

Plaintiff commenced this action by filing a complaint dated June 23, 2020. (Doc. #1). On December 14, 2020, the Court issued an Order of Service which, among other things, informed plaintiff that if he failed to notify the Court if his address changed, the Court may dismiss this action. (Doc. #8). On December 15, 2020, the Court also mailed to plaintiff an "Information Packet," which included among other items, a document entitled "Instructions for Litigants Who Do Not Have Attorneys," that stated "If your contact information changes, it is your responsibility to notify the court in writing, even if you are incarcerated and transferred to another facility or released from custody," and that "Your case could be dismissed if you do not notify the court of an address change." (Doc. #10)

Plaintiff also filed an application to proceed without prepaying fees or costs, dated October 27, 2020. (Doc. #4). Since then, however, plaintiff has not filed anything on the docket in this case. For example, plaintiff has not filed an opposition to or sought an extension of time to respond to defendants' March 16, 2021, motion to dismiss the complaint. (Doc. #16). Accordingly, by Order dated October 12, 2021, the Court set a telephonic status conference for November 4, 2021, at 2:30 p.m. and provided telephone dial-in information for plaintiff and counsel for defendants to use to appear by telephone. (Doc. #22). The Court mailed a copy of this Order to plaintiff at the address on the docket (Bergen County Jail). It has not received any return mail from Bergen County Jail, either of this Order or any of the aforementioned documents.

In the same October 12, 2021, Order, the Court directed defense counsel to make prior arrangements with the appropriate facility to have plaintiff available by telephone. (Doc. #22). By letter dated October 12, 2021, defense counsel reported that when she contacted Bergen County Jail, they informed her that plaintiff was taken by U.S. Immigration on March 26, 2021, and they had no additional information as to where he was taken or his current location. She also noted that the Federal Bureau of Prisons website states plaintiff is "released." (Doc. #23).<sup>1</sup> The Court ordered the November 4, 2021, conference would proceed as scheduled. (Doc. #24).

<sup>1</sup> Indeed, the Federal Bureau of Prison website states plaintiff was released on January 31, 2020. The Court notes that the Executive Office for Immigration Review ("EOIR") website reflects that plaintiff was ordered removed from the United States on February 22, 2021, and that

Today, at an on-the-record conference, counsel for defendants appeared. Plaintiff failed to appear for the conference without excuse or explanation.

Accordingly, it is HEREBY ORDERED:

1. **By December 6, 2021, plaintiff must update the Court in writing as to his current address. If plaintiff fails to do so, the Court will deem this case abandoned and dismiss the case for failure to prosecute or to comply with Court Orders. Fed. R. Civ. P. 41(b). As the Court has previously warned, it is plaintiff's responsibility to inform the Court if his address changes, and failure to do so will result in dismissal of this case.**

2. A status conference is scheduled for December 22, 2021 at 9:30 a.m. Plaintiff and counsel for defendants shall attend by calling the following number and entering the access code when requested:

Number: (888) 363-4749 (toll-free) or (215) 446-3662

Access Code: 1703567

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: November 4, 2021  
White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
United States District Judge

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no appeal was received on that decision. The EOIR website allows users to search for individuals by "A-number." Plaintiff previously provided the Court with his A-number.